

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
CRIMINAL MISC.APPLICATION No. 6817 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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PRATAPBHAI PRANJIVANBHAI GANDHI & 11 - Applicant(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR PJ KANABAR for Applicant(s) : 1 - 12.

MR DIPEN DESAI, APP for Respondent(s) : 1,

MR YOGESH S LAKHANI for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 12/10/2007

ORAL JUDGMENT

The petitioners have filed this petition seeking quashing of complaint bearing Criminal Case No.1276/01 filed in the court of Judicial

Magistrate, First Class, Viramgam on 12th July 2001 and the process issued thereon by the learned Magistrate.

2. During the pendency of the petition, petitioner Nos.5 and 7 having expired, the petition is being maintained by rest of the petitioners.

3. Respondent No.2, original complainant, has stated in the complaint, inter alia, that he is a reputed member of the community and he was at the relevant time President of one Shree Mataji Kankaswari Temple Trust. The petitioners published an advertisement in the daily called Fulchab on 4.7.2001 having its circulation in Virangam in which it is stated that a meeting has been called of the general body of the Trust on 22nd July 2001 for removing the complainant from the position of the President of the Trust and that all members should remain present and vote.

4. Though the complaint itself runs into several pages, it is not in dispute that according to the complainant, the publication of the above advertisement has caused damage to his reputation. He, therefore, complained that the petitioners have committed offence punishable under sections 500, 501 and 114 of the Indian Penal Code.

5. Having heard learned advocate Shri Kanabar for the petitioners, learned APP Shri Dipen Desai

for the State and learned advocate Shri Lakhani for respondent No.2, I have no hesitation in coming to the conclusion that the advertisement in question carries no defamatory material. The only statement contained in the said advertisement, as noted above, is that the meeting is convened on 22nd July 2001 to transact the agenda of removal of the complainant as President of the Trust and that all eligible members should come and vote. There is no statement in the advertisement which can be stated to be derogatory or which in any manner would harm reputation of the complainant. Since the entire complaint is based on publication of the said advertisement and its resultant alleged harm to the reputation of the complainant, I find that the complaint itself cannot be sustained.

6. In the result, the petition is allowed. The complaint bearing Criminal Case No.1276 of 2001 filed before the court of Judicial Magistrate, First Class, Viramgam is quashed. Rule is made absolute.

(Akil Kureshi, J.)

(vjn)